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*Attorneys for Defendants C. R. Bard, Inc. and  
Bard Peripheral Vascular, Inc.*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

IN RE: Bard IVC Filters Products Liability  
Litigation,

No. 2:15-MD-02641-DGC

**DEFENDANTS' RESPONSE TO  
PLAINTIFF'S MOTION *IN LIMINE*  
#3 TO EXCLUDE UNRELATED  
MEDICAL ISSUES RELATING TO  
MARCH 2016 TREATMENT AND  
DR. TAYLOR'S TESTIMONY**

The plaintiff argues that evidence of Dr. Colleen Taylor's treatment of her March 2016 gastrointestinal bleeding and ulcers associated with NSAID use should be excluded because these medical issues are unrelated to her IVC filter and her alleged injuries.<sup>1</sup> In response, Bard incorporates its response to the plaintiff's MIL No. 1 relating to her use of NSAIDs generally.

Dr. Taylor's treatment of the plaintiff in 2016 for another GI bleed and her

<sup>1</sup> The portion of the motion relating to Dr. Taylor's testimony about treatment by other physicians is moot, as Bard did not include any such designations in the deposition transcript submitted to the Court on April 23, 2018 for review of objections.

testimony about the role NSAIDs played in the plaintiff's medical condition are directly relevant. On the one hand, the plaintiff claims that the filter strut in her pulmonary artery puts her at lifelong risk of developing a clot. However, the plaintiff's use of NSAIDs themselves puts her at increased risk of developing a clot. Specifically, the gastrointestinal bleeding that she experiences because of her NSAID use is the reason that she cannot take anticoagulants, thereby increasing the risk of future clotting. In short, whether the plaintiff continues taking NSAIDs impacts her future risk, separate and apart from the retained strut. Hence, these issues are interwoven with whether the plaintiff can prove causation and damages regarding her claim to need future medical care. The evidence should therefore be admissible under Rule 401, and the plaintiff's motion should be denied.

An alleged future risk of clotting is a major component of the plaintiff's damages claim. The plaintiff's cardiothoracic surgery expert, Dr. Derek Muehrcke, opines that Ms. Jones is at an increased risk of clot development and pulmonary embolism because of the filter strut in her pulmonary artery. In that regard, he opines that Mrs. Jones "is also at risk for her Eclipse filter fragment to . . . clot her pulmonary artery without anticoagulation (which she is not a candidate for due to GI bleeding issues) . . . ." (*See* Derek Muehrcke, M.D. Rule 26 Report, at 8, excerpt attached as Exhibit A.)

NSAID use is a known cause of clot development and gastrointestinal bleeding. *See, e.g.,* Lanas, *Objective Evidence of Aspirin Use In Both Ulcer And Nonulcer Upper and Lower Gastrointestinal Bleeding*, 103 *Gastroenterology* 862 (1992) (reporting high association between current intake of NSAIDs with gastrointestinal bleeding); Ungprasert, *Non-steroidal anti-inflammatory drugs and risk of venous thromboembolism: a systematic review and meta-analysis*, 54 *Rheumatology* 736 (2014) (review of six studies finding that NSAID users have statistically significant increased risk of venous thromboembolism). Here, Dr. Taylor's testimony speaks directly to the relationship between the plaintiff's chronic gastrointestinal issues and her NSAID use. (*See* Colleen Taylor, M.D. Dep. Tr., p. 17 excerpt attached as Exhibit B.) Given the plaintiff's reliance on her experts' opinions

1 that the plaintiff is contraindicated for anticoagulants due to her history of gastrointestinal  
 2 bleeding, Bard should be entitled to present evidence relating to her on-going use of  
 3 NSAID's and the required medical treatment as a result of it. Bard should be able to  
 4 cross-examine her experts about other reasons why Ms. Jones cannot be anticoagulated,  
 5 and whether Ms. Jones can be anticoagulated if she does not take NSAIDs. Further, Bard  
 6 should be able to cross-examine the plaintiff's experts on whether these issues impact Ms.  
 7 Jones' need for medical monitoring. Accordingly, Dr. Taylor's testimony and Ms. Jones'  
 8 March 2016 medical issues regarding gastrointestinal bleeding and NSAID use are  
 9 relevant to causation and damages, and the plaintiff's motion should be denied.

10 RESPECTFULLY SUBMITTED this 25th day of April, 2018.

11 s/ Richard B. North, Jr.

12 Richard B. North, Jr.

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**CERTIFICATE OF SERVICE**

I hereby certify that on April 25th, 2018, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to all attorneys of record.

s/ Richard B. North, Jr.  
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